

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

E.K. WADE,  Plaintiff,  v.  KATPANA SUNDARAM, et al.,  Defendants.	No. C 10-04929 CW  ORDER ON PLAINTIFF'S MOTIONS TO DISMISS AND DENYING AS MOOT DEFENDANTS' MOTION TO DISMISS AND MOTION TO DEEM PLAINTIFF A VEXATIOUS LITIGANT
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Pro se Plaintiff E.K. Wade has filed a motion to dismiss his verified complaint without prejudice and a motion to dismiss his second amended complaint without prejudice. The Court deems these motions to be notices of dismissal.

Federal Rule of Civil Procedure 41(a)(1)(A) affords Plaintiff the absolute right to dismiss his action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." See also Am. Soccer Co., Inc. v. Score First Enters., 187 F.3d 1108, 1110 (9th Cir. 1999). Defendants Katpana Sundaram, et al., have not answered Plaintiff's complaint or moved for summary judgment. Accordingly, Plaintiff's action is dismissed.

1 Defendants' motion to dismiss and motion to deem Plaintiff a  
2 vexatious litigant are DENIED as moot. (Docket Nos. 24 and 25.)  
3 The Clerk shall close the file.

4 IT IS SO ORDERED.

5 Dated: 2/7/2011

  
CLAUDIA WILKEN  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

WADE et al,

Plaintiff,

v.

BROWN et al,

Defendant.

Case Number: CV10-04929 CW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on February 7, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

E. K. Wade  
307 Twin Bridge Circle  
Pleasant Hill, CA 94523

Dated: February 7, 2011

Richard W. Wieking, Clerk  
By: Nikki Riley, Deputy Clerk

United States District Court  
For the Northern District of California